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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,077

04/28/2005

Kyung-Lim Lee

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7055 7590 09/18/2007  
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EXAMINER

PACKARD, BENJAMIN J

ART UNIT

PAPER NUMBER

1609

NOTIFICATION DATE

DELIVERY MODE

09/18/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

## Office Action Summary

**Application No.**

10/533,077

**Applicant(s)**

LEE ET AL.

**Examiner**

Benjamin J. Packard

**Art Unit**

1609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17,20-25,37 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17,20-25, 37 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

As a result of the filing dated 2/12/2007, claims 19, 26-36 and 38 are canceled. Claims 17, 20, and 37 are amended. Finally, Claims 17, 20-25, 37, and 39 are currently pending.

### ***Claim Rejections - 35 USC § 112***

Applicant's arguments, see page 8, filed 2/12/2007, with respect to claims 19-20, 33-36, and 38 have been fully considered and are persuasive. The rejection of claims 19-20, 33-36, and 38 has been withdrawn as a result of the amendment that specifies the benzimidazole compounds and cancellation of claims 19, 26-36, and 38 with respect to the 112 written description rejection.

### ***Claim Rejections - 35 USC § 102(e)***

Applicant's arguments, see page 8, filed 2/12/2007, with respect to claims 26-29 have been fully considered and are persuasive. The rejection of claims 26-29 has been withdrawn with respect to the 102(e) rejection in view of TSUJI et al as a result of the cancellation of the rejected claims.

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***Claim Rejections - 35 USC § 103***

Applicant's arguments filed 1/12/2007 have been fully considered and are now moot with respect to claims 12, 19-30 and 33-39 over HAMAGUCHI et al, in view of TSUJI et al as a result of the amendments.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17, 20-24, 37, and 39 rejected under 35 U.S.C. 102(b) as being anticipated by BELANGER et al (US 4,863,958).

17. A method of inhibiting the secretion of IgE-dependent histamine-releasing factor (HRF) in a patient, wherein the method comprises administering to the patient an effective amount of a benzimidazole compound selected from the group consisting of omeprazole, lansoprazole, pantoprazole, and rabeprazole.

BELANGER et al teaches the use of omeprazole (column 35, lines 64-66) for the treatment of asthma and anaphylaxis (column 1 lines 18-22, column 1 lines 30-32, and claim 4). Asthma is a disease that can be triggered by the secretion of IgE-dependent histamine-releasing factor

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(see instant claim 22); therefore, by treating asthma, the method of inhibiting IgE-dependent histamine-releasing factor is inherently practiced.

20. The method of claim -1-9 17, wherein the method comprises the additional administration of at least one of fenoctimine, oleic acid, catechin, scopadulciol, pentagalloyl glucose, bufalin, bafilomycin and concanamycin.

BELANGER et al teaches the addition of Oleic Acid to the composition at column 32, lines 46-50.

21. The method of claim 17, wherein the method comprises treatment of an allergic disease caused by HRF.

See claim 1.

22. The method of claim 21, wherein the allergic disease caused by HRF comprises at least one of asthma, urticaria, anaphylaxis, allergic rhinitis, allergic bronchiectasis, hay fever, atopic dermatitis and malaria.

See claim 1.

23. The method of claim 21, wherein the allergic disease caused by HRF comprises at least one of asthma, urticaria, allergic bronchiectasis, and atopic dermatitis.

See claim 1.

24. The method of claim 21, wherein the allergic disease caused by HRF comprises at least one of anaphylaxis, allergic rhinitis, and hay fever.

See claim 1.

37. A method of treating an allergic disease caused by IgE- dependent histamine-releasing factor (HRF) in a patient, wherein the allergic disease comprises at least one of asthma, urticaria, anaphylaxis, allergic rhinitis, allergic bronchiectasis, hay fever, atopic dermatitis and malaria and the method comprises administering to the patient an effective amount of a benzimidazole selected from the group consisting of omeprazole, lansoprazole, pantoprazole, and rabeprazole.

See claim 1.

39. The method of claim 37, wherein the method comprises an additional administration of at least one of fenoctimine, oleic acid, catechin, scopadulciol, pentagalloyl glucose, bufalin, bafilomycin and concanamycin.

See claim 20 and 37.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by RUBIN (US 5,476,842).

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25. The method of claim 21, wherein the allergic disease caused by HRF comprises malaria.

RUBIN teaches the use of a composition comprising omeprazole (column 14 lines 13-16) with anti-malaria compounds (column 13 lines 35-38).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin J. Packard whose telephone number is 571-270-3440. The examiner can normally be reached on M-R 9-4:30 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12 September 2007  
BP

 9/12/07  
ARDIN H. MARSCHEL  
SUPERVISORY PATENT EXAMINER